

106TH CONGRESS
2D SESSION

H. R. 5177

To establish the Administrative Law Judge Conference of the United States,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2000

Mr. GEKAS introduced the following bill; which was referred to the Committee
on the Judiciary

A BILL

To establish the Administrative Law Judge Conference of
the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Administrative Law
5 Judge Conference of the United States Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) in order to promote efficiency, productivity,
9 and the improvement of administrative functions, to
10 enhance public service and public trust in the admin-

1 istrative resolution of disputes, and to enhance the
 2 enforcement of the administrative law provisions of
 3 title 5, United States Code, the Administrative Law
 4 Judge Conference of the United States should be es-
 5 tablished;

6 (2) the existing system of agency assignments
 7 of administrative law judges appointed under section
 8 3015 of title 5, United States Code, will be en-
 9 hanced, by creating the Administrative Law Judge
 10 Conference of the United States and will serve the
 11 public with maximum economy and efficiency; and

12 (3) the Administrative Law Judge Conference
 13 of the United States will enhance judicial perform-
 14 ance, status, and legal training of administrative law
 15 judges by establishing initial and continuing edu-
 16 cation programs, studying the adjudication system,
 17 and reporting annually to Congress.

18 **SEC. 3. ESTABLISHMENT OF THE ADMINISTRATIVE LAW**
 19 **JUDGE CONFERENCE OF THE UNITED**
 20 **STATES.**

21 (a) IN GENERAL.—Chapter 5 of title 5, United
 22 States Code, is amended by adding at the end thereof the
 23 following new subchapter:

1 “SUBCHAPTER VI—THE ADMINISTRATIVE LAW
2 JUDGE CONFERENCE OF THE UNITED STATES

3 **“§ 597. Definitions**

4 “For the purposes of this subchapter—

5 “(1) the term ‘agency’ means an authority re-
6 ferred to in section 551(l);

7 “(2) the term ‘Conference’ means the Adminis-
8 trative Law Judge Conference of the United States
9 established under section 598;

10 “(3) the term ‘administrative law judge’ means
11 an administrative law judge appointed under section
12 3105 before or after the effective date of this sub-
13 chapter; and

14 “(4) the term ‘chief judge’ means the chief ad-
15 ministrative law judge appointed and serving under
16 section 599.

17 **“§ 598. Establishment; membership**

18 “There is established the Administrative Law Judge
19 Conference of the United States consisting of all adminis-
20 trative law judges appointed under section 599A.

21 **“§ 599. Chief administrative law judge**

22 “(a) APPOINTMENT; TERM; PAY.—The chief admin-
23 istrative law judge shall be the chief administrative officer
24 and presiding judge of the Conference. The chief judge
25 shall be appointed by the President, by and with the advice

1 and consent of the Senate. The chief judge shall have
2 served as an administrative law judge for at least 5 years
3 immediately before the date of appointment. The term of
4 office of the chief judge shall be 5 years or, after expira-
5 tion of 5 years, until a successor is appointed and qualifies
6 to serve. A chief judge may be reappointed by the Presi-
7 dent, by and with the advice and consent of the Senate,
8 for 1 additional term upon the expiration of the first term
9 of such judge. The chief judge shall be paid at the rate
10 of 105 percent of basic pay for level IV of the Executive
11 Schedule.

12 “(b) POWERS OF THE CHIEF JUDGE.—The chief
13 judge shall—

14 “(1) enhance and develop the administrative
15 law process and the administrative law judge func-
16 tion;

17 “(2) develop training programs, in coordination
18 with the agencies, to promote judicial education, spe-
19 cialization, and efficiency of administrative law
20 judges;

21 “(3) consult with agencies and the Office of
22 Management and Budget regarding resources nec-
23 essary to support administrative law judge functions;

24 “(4) study instances when administrative law
25 judges are directed by an agency not to follow deci-

1 sions of Federal circuit courts of appeal because of
2 nonacquiescence by the agency for which the judge
3 presides and report the findings to the President
4 and the Congress; and

5 “(5) make rules and procedures to implement
6 the functions of the Conference. The chief judge
7 shall make an annual written report to the President
8 and the Congress including recommendations to im-
9 prove the administrative adjudicative process.

10 “(d) TRANSFER.—All functions of the Office of Per-
11 sonnel Management with respect to administrative law
12 judges are transferred to the Conference.

13 **“§ 599A. Administrative law judge**

14 “(a) ASSIGNMENT TO AGENCIES.—After selection for
15 appointment to the position of administrative law judge
16 by an agency, the administrative law judge shall be as-
17 signed by the chief judge to such agency for the adjudica-
18 tion of cases for the agency. Each administrative law
19 judge appointed at the time of the date of enactment of
20 this section shall be assigned to the agency the administra-
21 tive law judge was assigned to at the time of the date
22 of enactment of this section. Subsequent assignments of
23 the administrative law judge shall be made with the con-
24 sent of the administrative law judge and the appointing
25 agency.

1 “(b) AGENCIES.—Each agency with assigned admin-
2 istrative law judges shall be responsible to provide for all
3 budget, resources and support requirements for each ad-
4 ministrative law judge assigned to the agency.

5 “(c) APPOINTMENT OF AGENCY CHIEF JUDGES.—
6 The chief administrative law judge of each agency shall
7 be appointed by the agency head.

8 **“§ 599B. Jurisdiction**

9 “(a) REFERRAL OF CASES BY COURTS.—With the
10 approval of the agency to whom the administrative law
11 judge is assigned, courts are authorized to refer cases, or
12 portions thereof, to an administrative law judge to act as
13 a special master pursuant to the provisions of Rule 53(a)
14 of the Federal Rules of Civil Procedure or otherwise to
15 make findings of fact in a case on behalf of the referring
16 court, which shall continue to have exclusive and
17 undiminished jurisdiction over the case. When a court has
18 referred a case to an administrative law judge, the rec-
19 ommendations, rulings, and findings of fact of the admin-
20 istrative law judge are subject to de novo review by the
21 referring court. The court shall provide for reimbursement
22 to the agency involved for costs relating to the administra-
23 tive law judge referral.

24 “(b) SAVINGS CLAUSE.—The provisions of this sub-
25 chapter shall effect no change in—

1 “(1) any agency’s rulemaking, interpretative, or
 2 policy making authority in carrying out the statutory
 3 responsibilities vested in the agency or agency head;

4 “(2) the adjudicatory authority of administra-
 5 tive law judges; or

6 “(3) the authority of an agency to review deci-
 7 sions of administrative law judges under any appli-
 8 cable provision of law.

9 **“§ 599C. Standards of conduct**

10 “The chief judge, after providing notice and a period
 11 for comment, shall adopt and issue rules of judicial con-
 12 duct for administrative law judges, consistent with the
 13 Model Code of Judicial Conduct for administrative law
 14 judges (American Bar Association, 1989). An administra-
 15 tive law judge may not be removed, suspended, rep-
 16 rimanded, or disciplined except as provided in section
 17 7521. The rules of judicial conduct for administrative law
 18 judges shall provide for a voluntary alternative dispute
 19 resolution process that shall be conducted at the request
 20 of the administrative law judge.”.

21 (b) SATISFACTION OF OTHER PROCEDURAL RE-
 22 QUIREMENTS.—Compliance with subchapter VI of chapter
 23 5 of title 5, United States Code, as added by subsection
 24 (a), shall satisfy all requirements imposed under section

1 916 of the Financial Institutions Reform, Recovery, and
2 Enforcement Act of 1989.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated \$5,000,000 for fiscal year
5 2000 for the Administrative Law Judge Conference of the
6 United States.

7 (d) CLERICAL AMENDMENT.—The table of sections
8 for chapter 5 of title 5, United States Code, is amended
9 by adding at the end thereof the following:

“SUBCHAPTER VI—THE ADMINISTRATIVE LAW JUDGE
CONFERENCE OF THE UNITED STATES

“597. Definitions.

“598. Establishment; membership.

“599. Chief administrative law judge.

“599A. Administrative law judges.

“599B. Jurisdiction.

“599C. Standards of conduct.”.

10 **SEC. 4. TRANSITION PROVISIONS.**

11 (a) TRANSFERS.—There shall be transferred to the
12 Administrative Law Judge Conference of the United
13 States established under section 598 of title 5, United
14 States Code, the personnel, property, unexpended balances
15 of appropriations, allocations, and other funds employed
16 and held by the Office of Personnel Management and re-
17 lating to the administrative law function administered by
18 the Office of Personnel Management. Appropriations, au-
19 thorizations, allocations, and other funds paid or trans-
20 ferred by agencies to the Office of Personnel Management
21 for the administration of the administrative law judge

1 function shall, after the date of the enactment of this Act,
2 be paid or transferred to the Conference.

3 (b) COLLECTIVE BARGAINING AGREEMENTS.—Col-
4 lective bargaining agreements, relating to personnel trans-
5 ferred by subsection (a), shall remain in effect according
6 to the terms thereof.

7 (c) DISPUTES.—The Director of the Office of Man-
8 agement and Budget, at such time or times as the Direc-
9 tor may provide, shall make such determinations as may
10 be necessary with regard to any dispute arising from the
11 transfer of personnel or assets by subsection (a).

12 **SEC. 5. OPERATION OF THE CONFERENCE.**

13 Operation of the Administrative Law Judge Con-
14 ference of the United States established under section 598
15 of title 5, United States Code, shall commence on the date
16 the first chief judge of the Conference takes office under
17 section 599 of such title.

18 **SEC. 6. EFFECTIVE DATE.**

19 Except as otherwise provided, this Act and the
20 amendments made by this Act shall take effect 120 days
21 after the date of the enactment of this Act.

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